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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,537	09/26/2001	Jonathan Lacey	10004238-1	3740

7590 06/05/2006  
AGILENT TECHNOLOGIES, INC.  
Legal Department, DL429  
Intellectual Property Administration  
P.O. Box 7599  
Loveland, CO 80537-0599

EXAMINER
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PETKOVSEK, DANIEL J

ART UNIT	PAPER NUMBER
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2874

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/965,537

Applicant(s)

LACEY, JONATHAN

Examiner

Daniel J. Petkovsek

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on supp. appeal brief filed March 14, 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 8, 9 and 11-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8, 9, and 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

In view of the supplemental appeal brief filed on March 14, 2006, and especially in view of further search and consideration, and the consequent upturn of relevant prior art documents, a newly modified rejection is set forth below. The finality of the office action mailed January 3, 2005 has been withdrawn. This action, with the rejections of claims 1-3, 8, 9, and 11-20, is made NON-FINAL.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 8, 9, and 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagahori et al. U.S.P. No. 5,896,213, and further in view of Geile et al. U.S.P. No. 6,336,201, further in view of Ravasio et al. U.S.P. No. 6,909,821 B2, and further in view of Liu et al. U.S.P. No. 5,485,465.

Nagahori et al. U.S.P. No. 5,896,213 teaches (ABS, Figs. 2, 4, and 5, summary, claim 1) an optical fiber network system comprising: an optical transmitter 6 for broadcasting an optical signal to a plurality of optical receivers 31-3N; a branching point 3 coupled to the transmitter including a 1xN element; and first and second individual optical transmission lines corresponding to particular end users. Nagahori et al. '213 does not explicitly teach that the

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branch element is 1x2, or the optical transmission lines are optical fiber cables surrounding fibers 51-5N.

Geile et al. U.S.P. No. 6,336,201 teaches (column 21, line 60 through column 22, line 6) a fiber cable transmission system that transmits optical signals to users by use of a branching point, in which it is taught that a tree of cascaded splitters can be used in any optical transmission network in order to further multiply the number of duplicated optical signals and thus increase the remote units serviceable by a single transmission signal. Any tree arrangement (1x2, 1x3, 1xN, etc) would have been reasonably suggested by the prior art of Geile et al. '201 for the motivation of having as many or as few branching means as possible.

Since Nagahori et al. '213 and Geile et al. '201 are both from the same field of endeavor, the purpose of splitting the optical signal into a plurality of usable optical signals for desired end users, as disclosed by Geile et al. '201, would have been recognized in the pertinent art of Nagahori et al. '213.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use a tree of splitters (such as 1x2, or other splitters) in the branching point of Nagahori et al. '213 for the purpose of sending this optical signal to a greater plurality of end users for the purpose of broadcasting the signal to more users for more economic growth capabilities.

Ravasio et al. U.S.P. No. 6,909,821 B2 teaches (Figs. 1, 4; column 13, lines 15-60) an optical fiber cable that protects and envelops optical fibers. Ravasio et al. '821 also teaches the use of this type of cable in a branching apparatus for optical signals to a plurality of end users.

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Regarding the limitation that the optical transmission line is not an optical fiber cable, since cables are shown by the Ravasio et al. '821 reference to protect and envelop optical transmission lines, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to use optical cables to protect the optical signals traveling to the end user, since cables are known to protect an optical fiber(s) from outside influences that may hinder the optical performance.

Nagahori et al. '213 does not explicitly teach a second cable to provide "route diversity" in the optical branching device.

Liu et al. U.S.P. No. 5,485,465 teaches (column 2, line 52 through column 3, line 9, column 5, lines 33-41) a broadcast network in which redundancy control is used, particularly in which a second fiber optical cable is used as a protection/redundancy line. This second optical fiber protection line implements "route diversity" of the optical broadcast system since any errors or losses of signal result in a switching to the second optical fiber cable to ensure that the broadcast signal is received by the end user(s).

Since Nagahori et al. '213 and Liu et al. '465 are both from the same field of endeavor, the purpose taught by Liu et al. '465, implementing "route diversity" by having a protection/redundant optical fiber cable, would have been recognized in the pertinent art of Nagahori et al. '213 in order to improve the functionality and error-control of the broadcast system.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to add a protection/redundant second optical fiber cable to the optical

broadcast network of Nagahori et al. '213 for the purpose of decreasing error, keeping optical signals, improving end user functionality, etc., as taught by Liu et al. '465.

Regarding claims 2 and 3, the network is arranged as a star, and has buses. Regarding claim 8, the branching is located in central office or in a "field". Regarding claims 11 and 12, there is a plurality of optical receivers. Regarding claims 13-16, these components are well-known in any optical routing system, although not explicitly disclosed. Regarding claim 17, all optical fibers have signals.

Regarding method claims 18-20, the methods are reasonably suggested (for the same reasons as claim 1 is rejected) by the combination of the references above.

### ***Response to Arguments***

3. Applicant's arguments, see supplemental appeal brief, filed March 14, 2006 are not persuasive. However, upon Applicant's request (page 3, line 18 through page 4, line 24) the Examiner has supplied a new reference to Ravasio et al. U.S.P. No. 6,909,821 B2 in order to provide evidentiary support to show how optical fibers can be protected by optical cable elements.

4. A new basis for rejection has been provided in this office action to claims 1-3, 8, 9, and 11-20 under 35 U.S.C. 103 (a), and fully addressed above. As such, this office action is made **NON-FINAL**.

5. In view of the arguments filed on March 14, 2006, (MPEP 1002.02(d)), **PROSECUTION IS HEREBY REOPENED**. The following is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### *Conclusion*


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure, with respect to the state of the art of optical broadcast networks: PTO-892 form references B.

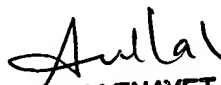
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Petkovsek whose telephone number is (571) 272-2355. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Daniel Petkovsek  
May 23, 2006

  
AKM ENAYET ULLAH  
PRIMARY EXAMINER